

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Dallas Division**

CHARLENE CARTER, Plaintiff, v. SOUTHWEST AIRLINES CO., AND TRANSPORT WORKERS UNION OF AMERICA, LOCAL 556, Defendants.	Civil Case No. 3:17-cv-02278-S PLAINTIFF’S NOTICE REGARDING HER THIRD AMENDED COMPLAINT
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Plaintiff Charlene Carter (“Carter”), through her counsel of record, hereby files this Notice Regarding Her Third Amended Complaint, and notifies the Court of the following:

1. On March 1, 2019, Carter filed her Third Amended Complaint (Dkt. No. 70), to amend the Count III claim that Local 556 breached its duty of fair representation, pursuant to leave granted by the Court in its February 1, 2019 Memorandum Opinion and Order (Dkt. No. 69) (“Order”). Carter’s Third Amended Complaint replied by amending her pleadings only insofar as it concerned the Duty of Fair Representation allegations. As the Court’s Order only granted Plaintiff “leave to amend her pleadings as to Count III,” Plaintiff’s Counsel left the dismissed claims unchanged. Order at 36; *see also id.* at 31. Carter does not dispute that the Court dismissed such claims with prejudice or require Defendants to answer them.

2. On March 7, 2019, Counsel for Defendant Southwest Airlines Co. (“Southwest”), and Transport Workers Union of America, Local 556 (“Local 556”), contacted Plaintiff’s Counsel and expressed concerns with the Third Amended Complaint’s inclusion of dismissed claims. That same day Plaintiff’s Counsel offered to prepare a stipulation addressing all of

Defendants' concerns by acknowledging and agreeing that such claims were dismissed with prejudice and that Defendants Answers' need not respond to them. Southwest's Counsel responded on March 12, 2019, and the morning following those communications, Plaintiff's Counsel drafted and circulated to the parties a stipulation specifically identifying dismissed allegations and claims that would not require Defendants' Response. On March 13, 2019, Defendants rejected Plaintiff Counsel's offer to address those concerns via stipulation, arguing instead that Carter should refile her Complaint.

3. To help resolve any dispute or confusion, Plaintiff's Counsel hereby notifies the Court that it stipulates and agrees Carter's claims in Counts I and II of the Third Amended Complaint, and the unconstitutional retaliation claim in Count IV, were all dismissed with prejudice. Plaintiff's Counsel also notifies the Court that it stipulates and agrees Answers filed by Southwest and Local 556 need not respond to the following allegations in the Third Amended Complaint: ¶1, ¶¶78-85 (Count I), ¶¶86-92 (Count II), or to Part A (1) and (3) in the Prayer for Relief. Further, Answers filed by Southwest and Local 556 need not respond to the allegations in ¶3, ¶5, ¶¶108-118 (Count IV), or Part A (2), (5) in the Prayer for Relief insofar as they plead unconstitutional retaliation based on U.S. Constitutional rights.

4. Plaintiff's Counsel submits that Southwest's and Local 556's Answers should respond to all other allegations in the Third Amended Complaint, and to ¶3, ¶5, ¶¶108-118 (Count IV), and Part A (2), (5) in the Prayer for Relief insofar as those allegations plead Carter's statutory retaliation claims related to the exercise of RLA-protected rights.

5. Therefore, Plaintiff's Counsel hereby notifies the Court that the Third Amended Complaint amended Duty of Fair Representation allegations only and left dismissed claims unchanged in order to comply with the Court's Order and preserve their client's rights on appeal.

Plaintiff's Counsel further notifies the Court that it does not dispute that such claims were dismissed or require Defendants to answer them. But Plaintiff's Counsel will fully comply with any alternative approach to pleading that the Court may request or deem warranted.

DATED: March 15, 2019

Respectfully submitted,

s/ Jason E. Winford (with permission)

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Counsel for the Plaintiff

CERTIFICATE OF SERVICE

I certify that, on this day, the foregoing was electronically filed with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

By: /s/ Matthew B. Gilliam